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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 10817 of 2005
Date of decision: 20.12.2007

Darbara Singh **...Petitioner**

Versus

State of Punjab and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sanjeev Kumar Arora, Advocate for the petitioner

Mr. Ram Lal Gupta, Additional Advocate General, Punjab
for the respondents.

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RAJESH BINDAL, J.

The challenge in the present writ petition is to memo letter dated July 14, 2004 (Annexure P-1), whereby the pay of the petitioner has been reduced with effect from January 1, 1986 and recovery is effected from the petitioner on account of alleged excess payment due to wrong fixation of pay. Learned counsel for the petitioner submitted that the petitioner did not have any role to play in wrong fixation of his pay by the respondents as the respondents themselves committed error in fixing the pay for which petitioner cannot be made to suffer. In the absence of any fraud or misrepresentation attributable to the petitioner the amount already paid to the petitioner cannot be recovered as he was not at fault at all and it will be too harsh on him.

The petitioner also referred to and relied upon the judgment of Hon'ble the Supreme Court in **Sahib Ram v. State of Haryana and Others 1995(1) S.C.T. 668**. It is not denied that the wrong fixation of pay was not on account of any misrepresentation or fraud on the part of the petitioner, if that is so, in terms of judgment of Hon'ble the Supreme Court in **Sahib Ram's case** (supra) and the views expressed by this Court following the same in Civil Writ Petition No. 19794 of 2006 (Veena Kumari Vs. State of

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Punjab and others) decided on September 6, 2007 and in Civil Writ Petition No. 7917 of 2007 (Harmander Kaur Vs. State of Punjab and others) decided on October 16, 2007, the claim made by the petitioner deserves to be accepted. Accordingly, the prayer made by the petitioner is accepted and the impugned recovery notice dated July 14, 2004 (Annexure P-1) is quashed.

The writ petition is disposed of in the manner as stated above.

December 20, 2007 **(Rajesh Bindal)**
Pka **Judge**

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